

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

ORDER ON DISCOVERY ISSUE

The Court held a telephonic conference on December 30, 2024, to discuss a discovery issue. After consideration of the issues and the parties' arguments, for the reasons stated on the record, the Court finds and orders:

1. If Defendant intends to conduct the deposition of Attorney Thomas Cox, Defendant must serve Mr. Cox with a new subpoena. If Defendant is unable to serve Mr. Cox with the subpoena and Defendant believes it has grounds for alternate service of the subpoena, Defendant may file a motion for alternate service.
2. If the subpoena is served upon Mr. Cox and Mr. Cox or Plaintiff believes there are grounds to quash the subpoena or for a protective order, Mr. Cox or Plaintiff may file an appropriate motion.¹

¹ Mr. Cox has reserved his right to object to any inquiry or request for documents that implicate the attorney-client privilege or work product doctrine. The telephonic hearing included a brief discussion as to whether the work product protection or privilege belonged to the client or counsel. “Unlike the attorney-client privilege, the work product privilege belongs to the attorney as well as the client and cannot be waived by the client alone.” *AP Links, LLC v. Russ*, 299 F.R.D. 7, 12 (E.D. N.Y. 2014) (citations omitted); *see also, Gagne v. Ralph Pill Elec. Supply Co.*, 114 F.R.D. 22, 27 (D. Me. 1987) (work product protection “belongs to both the client and attorney”).

NOTICE

Any objections to this order shall be filed in accordance with Federal Rule of Civil Procedure 72.

/s/ John C. Nivison
U.S. Magistrate Judge

Dated this 31st day of December, 2024.